



COUNTY ROAD ASSOCIATION OF MICHIGAN

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CRAM TESTIMONY

HB 4677 & 4678

House Great Lakes and Environmental Committee

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The County Road Association of Michigan recognizes the importance of, and the need to fund, our state parks; however, we would be remiss if we didn't point out the obvious. First, this is just bad public policy and a deviation from our two perfectly valid user-pay structures.

If you use Michigan's infrastructure - you pay through fuel and vehicle registration taxes. In addition, if you chose to use our state parks - you purchase a park permit. Both are perfect user-pay structures and neither have anything to do with the other. Therefore, piggy-backing on a user-pay structure that has absolutely nothing to do with the other is 100% flawed.

The Citizens Advisory Committee for State Parks and some members of this committee are choosing to ignore our respective user-pay structures. State parks have other options, including increasing their park user-fee, creating a specific fundraising plate, etc.

Second, this legislation proposes to create and add a \$10.00 opt-out multi-purpose state parks/recreation passport fee when the registration for each non-commercial motor vehicle is issued or renewed - and a portion of these funds will also be available for local parks. This brings into paraphrase the constitutionality of this proposal. Article IX, Sec. 9 of the Michigan Constitution states:

"All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and to propel aircraft and on registered motor vehicles and aircraft shall, after the payment of necessary collection expenses, be used exclusively for transportation purposes as set forth in this section."

The distinction between a fee and a tax is important in analyzing whether the addition of the cost of a park access fee to the cost of obtaining or renewing a registration for a non-commercial motor vehicle violates the Michigan Constitution - which requires that ALL specific taxes imposed on registered motor vehicles be used exclusively for transportation purposes.

Based on our review and that of our legal counsel, we believe the proposed “fee” would be characterized as a “tax.” Considering *Bolt v City of Lansing*, 459 Mich 152; 587 NW2d 264 (1998), the Supreme Court determined that the City of Lansing’s storm water sewer charge was a “tax” not a “fee” requiring voter approval under the Headlee Amendment.

Furthermore, the Supreme Court set out three criteria that are used to distinguish a fee from a tax. A true “fee” is paid for a service rendered or a specific benefit conferred (a reasonable relationship must exist between the amount of the fee and the value of the service or benefit) - a “tax” on the other hand is designed to raise revenue. A “fee” must serve a regulatory purpose. In addition, a “fee” must be voluntary.

Under **HB 4678**, the “fee” is intended expressly for the purpose of raising revenue to operate state (and local) parks, not for a specific benefit conferred. In addition, the park access “fee” cannot be considered a regulatory fee under Article IX, Section 9 because there is no connection between park access and a regulatory function related in any way to transportation purposes in Article IX, Section 9 or to any regulatory function of any type. Notwithstanding the negative check-off, this “fee” is not voluntary because the park access fee will be imposed on all registered vehicles and the fee is imposed only on registered motor vehicles it is a specific tax on registered motor vehicles limiting the use of the revenue raised to the specific transportation purposes defined in Article IX, Section 9.

Lastly, using the State of Montana’s vehicle registration state park tax structure as your model for Michigan to implement is unusual since Montana’s constitution also prohibits using vehicle registration taxes for any other purpose other than transportation . . . unless there is a 3/5 vote of the legislature supporting some other use. That tells me, if it wasn’t for the Montana Constitution, Article VII, Section 6 (2), the legislature of Montana could not have added the state park tax to the vehicle registration tax structure. This says volumes.

The Montana Constitution, Article VII, Section 6 (2) that allows their legislature to veer from these revenues intended purpose states:

“(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.”

In closing, the “fee” in **SB 389** is a “tax” and would violate the Michigan Constitution of 1963, Article IX, Section 9. Thank you for the opportunity to speak.